

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIRMAN DAVE LEWIS**, on February 12, 2003 at 3:20 P.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Dave Lewis, Chairman (R)
Rep. Rosalie (Rosie) Buzzas, Vice Chairman (D)
Rep. Edith Clark, Vice Chairman (R)
Rep. John Brueggeman (R)
Rep. Tim Callahan (D)
Rep. Stanley (Stan) Fisher (R)
Rep. Eve Franklin (D)
Rep. Donald L. Hedges (R)
Rep. Joey Jayne (D)
Rep. Carol C. Juneau (D)
Rep. Dave Kasten (R)
Rep. Christine Kaufmann (D)
Rep. Monica Lindeen (D)
Rep. John Musgrove (D)
Rep. Jeff Pattison (R)
Rep. Rick Ripley (R)
Rep. John Sinrud (R)
Rep. John Witt (R)

Members Excused: Rep. Dick Haines (R)

Members Absent: None.

Staff Present: Jon Moe, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 363, HB 236, 2/6/2003
Executive Action: HB 279, HB 421, HB 492, HB 176, HB 236

HEARING ON HB 236

Sponsor: REP. RON ERICKSON, HD 64, Missoula

Opening Statement by Sponsor:

REP. ERICKSON said the bill has to do with lending. Two years ago, in HB 2, the oversight of POINTS was given to the Revenue and Taxation Interim Committee. There was a stabilization problem of an ongoing computer program that is basically all they had to work with because the old program is out. They were hoping they could make that connection between POINTS I and POINTS II but POINTS II couldn't be continued and when they got past a certain date, they had to go in a new direction. This bill makes sure how they are going in that new direction, while stabilizing the rest of POINTS.

Proponents' Testimony:

Kurt Alme, Director, Department of Revenue, introduced **Brian Wolf, Chief Information Officer and Dale Moccasin, Technical Project Manager, POINTS**. **Mr. Alme** said this is the bonding bill that will allow the Department to develop Phase II of POINTS. When they made the determination to not recommend approval of POINTS in November, 2002, there was a question whether those bonding proceeds could be used to continue the stabilization work on POINTS I and begin the transition in the system. At the time of stoppage, approximately \$2.5 million of unspent bonding proceeds remained in HB 13. They had two options at that time; since the Legislature wasn't in session, they could stop the data and software cleanup project going on in Phase I immediately, or they could continue to go forward and use HB 2 funds until such time as the Legislature passed this bill to clearly allow them to use those funds for that ongoing effort.

The alternative was to stop the project immediately but that is not something their independent validation recommends and is not something Mr. Wolf's office recommends. The reason is, if they stop the POINTS I project, they won't be able to address current issues going on now.

Since stopping POINTS II, the Department has incurred approximately \$500,000 in costs during January, with almost \$2 million of HB 15 funds remaining. They are currently working to prepare long-term options for the Legislature, as well as the recommendation for working with the Department of Labor, literally working to try to compress months of project planning into weeks to try to come forward with the best information and the best recommendation options they can through the Legislature

about how to proceed. They plan on coming forward with the first look at those options and recommendations the next few weeks.

Mr. Alme handed out an amendment page, Exhibit 1, and explained how it reflects the changes and transition.

EXHIBIT (aph31a01)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. FISHER asked Mr. Alme if he is correct in assuming the bill requests \$14 million to continue the POINTS program that has already cost \$34 million. **Mr. Alme** said, "No, that is not the case. This bill amends HB 15 that provided for the \$14 million for Phase II. Now they are asking, of that \$14 million, which is part of the \$32 million, for \$2.5 million remaining at the time they terminated that project. They would like to be able to use that remaining \$2.5 million, which is part of the \$14 million, to help with transition into the new system, so no, it is not an additional appropriation. They will do absolutely everything they can to keep the project running the best they can until they get transition into the new system."

In response to questions from **REP. PATTISON**, **REP. ERICKSON** said POINTS I is working, according to IBM, at a "C level" grade. They may get at least a "B level" and with the money available, get POINTS stabilized. **Mr. Alme** said it is going to take time for the transition and some of the other solutions they talked about in the committee. This Legislature will have to direct them in how rapidly they need to move forward with the funds available.

REP. PATTISON said he can't see how putting more money into the system is going to address anything. **Mr. Alme** said they have data in the POINTS system that has to be converted over to the new system. What they are working on now is trying to deal with the software and the data, as well as a manual attack on the balance of accounts they have. This is the major issue. What they are trying to do with this money is to deal with the transition to the new system, as well as operate in that environment until they can make that transition.

REP. KASTEN referred to Mr. Alme's comments about the project management account. **Mr. Alme** said the project management help would be additional and not replace existing FTE. That plan would depend on what their long-term option is.

In answer to **REP. JAYNE's** question concerning bonds, **Mr. Alme** said the way the bonds worked in HB 13 was during the 1999 Session, the Legislature approved \$14 million in bonding authority to go forward in the second phase of POINTS. Those bonds were then issued and purchased so the revenues are now being held in an account to pay for activity committed by HB 13 which is the amended bill before the committee now. Of those bonds that were lent, \$2.5 million of the proceeds still remain in the account and that is what they are asking to be allowed to help with the transition.

Closing by Sponsor:

REP. ERICKSON closed the Hearing on HB 236.

HEARING ON HB 363

Sponsor: **REP. ROY BROWN, HD 14, Billings**

Opening Statement by Sponsor:

REP. BROWN said this is a simple bill that eliminates the requirement for the Old Fund of the Worker's Compensation Fund. The Worker's Compensation Fund is required to keep an extra 10% reserve. The Old Fund was set up to cover injuries resulting in accidents prior to July 1, 1990. No new claims have been added to the fund since that time. Upon passage of HB 363, this 10% reserve is designed by this bill to help pay for the Teachers' Signing Bonus program. **REP. BROWN** finished his testimony from **EXHIBIT (aph31a02)**

Proponents' Testimony:

Bob Vogel, Montana School Boards' Association, said he would like to see a little more flexibility in where those additional funds go, aside from just into the Signing Bonus bill which is SB 267 that Sen. Stapleton introduced. They believe it is better to look at the total picture of education funding and to look at some of the priorities they have, such as the Loan Forgiveness Bill that is in the works, some health care expenses, etc. that this money could be used for and is sorely needed.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 29.4}

Dave Puyear, Montana Rural Schools' Association, said he strongly supports this measure. He also supports SB 267, the Teachers' Signing Bonus bill.

Aidan Myhre, Montana Chamber of Commerce, and spoke on behalf of **Riley Johnson, NFIB Government Relations** in support of the bill.

Eric Feaver, MEA/MFT, said, "He represents a lot of people who work for the state of Montana, the University system and nearly all the public schools. He rises in support of HB 363, at least partly. He does not support SB 267. He believes the money in this bill would be better spent on things that would do something positive for all school employees or for state employees. If the committee cannot decide to allocate it and appropriate it in a special way, put it in the General Fund. That is where the deficit is."

Opponents' Testimony: None

Informational Testimony:

Nancy Butler, Montana State Fund, said, "In 1990 the Legislature separated the liabilities to the State Fund. All the claims for 1990 became what they called the "Old Fund" and after July 1, 1990, it became the State Fund. The Old Fund was funded by what assets were left. In addition State Fund policy holders contributed about \$166 million in lieu of dividends that were required under law at the time."

Questions from Committee Members and Responses:

REP. HEDGES asked Ms. Butler if there are other pieces of legislation that would draw down the Old Fund. **Ms. Butler** said they are primarily in LC version still. There are some excess funds and \$4 million was taken from them in the special session. There is a bill to take the remaining, about \$9 million, from FY 2002.

REP. KAUFMANN asked Mr. Feaver why signing bonuses is a bad idea. **Mr. Feaver** said SB 267 contemplates some very attractive signing bonuses for new teachers only in rural areas as defined by the bill and new teachers only who will replace teachers who have twenty-six years' experience and retire. That excludes every current teacher working in the state of Montana, even those hired this year, last year, fifteen years ago or twenty. That is not the kind of message to send to those people who have been working all these many years and months; that new teachers, unproven, untested, inexperienced are suddenly going to be deserving of signing bonuses. There are other ways to compensate teachers.

CHAIRMAN LEWIS said one of the amendments would make a transfer effective this year to cover the cash flow problem that they are looking at in June and then put the money back after July 1. It

would be helpful to make a transfer this year effective upon passage and approval to cover the cash flow problem. **REP. BROWN** said there are restricted and non-restricted funds that are available from the Old Fund that are in excess over and above the liability and they amount to about \$20 million. This bill only requests \$9 million of that. He would leave it up to the committee to decide what would be acceptable. The Teachers' Signing Bonus fiscal note is not the \$7 million that is in this bill. The fiscal note on the Teachers' Signing Bonus is \$5.56 million.

In response to a question from **REP. JUNEAU** concerning cash flow problems, **CHAIRMAN LEWIS** said he and the Legislative Fiscal Analyst have been discussing the probability of a positive fund balance at the end of the fiscal year but they might have a negative cash balance of about \$10 million or \$12 million. That all depends on income tax collections between now and May. The cash and fund balances are fine in FY2004 and FY2005 in the projections, but the cash balance for this year is close. They are able to approve some tax revenues at the end of the fiscal year. They count them and they count in the fund balance. As of June 30, the fund balance can be all right because some of those tax receipts are counted as part of that balance but the cash is not actually in hand. That is the problem they are looking at.

In response to a question from **REP. LINDEEN**, **CHAIRMAN LEWIS** said they are taking a look at the statements in accounting right now. There might be something more than \$9 million.

REP. FISHER asked Chuck Swysgood, Director, Office of Budget and Program Planning, if they can take the money that is in this Old Compensation Fund and put it in the General Fund. **Mr. Swysgood** said if the money in this bill and in another bill takes the excess reserves, you can do that.

Closing by Sponsor:

REP. BROWN closed the Hearing on HB 363.

EXECUTIVE ACTION ON HB 236

Motion: **REP. BRUEGGEMAN** moved that HB 236 DO PASS.

Motion: **REP. BRUEGGEMAN** moved that HB 236 BE AMENDED, CONCEPTUALLY, HB0236.02.agp.

EXHIBIT (aph31a03)

Discussion:

REP. JUNEAU asked, "Who is going to monitor this?" **REP.**

BRUEGGEMAN said the Department of Revenue will be looking at the next phase after POINTS so will retain the staff. Any bonding or appropriation and new project oversight will be handled through the Chief Information Officer's office because they have the ability to make sure the project staff, the validation and verification with respect to the process on any kind of new process on the system, will have to go through the project management structure of the Chief Information Officer and the Information Technology Services Division.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 27.6}

Vote: Conceptual Motion on Amendment carried 17-1 with **REP. PATTISON** voting no on a voice vote.

Motion/Vote: **REP. BRUEGGEMAN** moved that HB 236 DO PASS AS AMENDED. Motion carried unanimously, 18-0 on a voice vote.

EXECUTIVE ACTION ON HB 279

Motion/Vote: **REP. BUZZAS** moved that HB 279 BE TABLED. Motion carried 13-5 with **REPS. CALLAHAN, HEDGES, KAUFMANN, LINDEEN** and **MUSGROVE** voting no on a roll call vote.

EXECUTIVE ACTION ON HB 421

Motion/Vote: **REP. FISHER** moved that HB 421 BE TABLED. Motion carried unanimously 18-0 on a voice vote.

EXECUTIVE ACTION ON HB 492

Motion: **REP. HEDGES** moved that HB 492 DO PASS.

Motion/Vote: **REP. HEDGES** moved that HB 492 BE AMENDED, HB049201.atp. Motion carried 16-2 with **REPS. PATTISON** and **WITT** voting no on a voice vote.

EXHIBIT (aph31a04)

Motion: **REP. HEDGES** moved that HB 492 DO PASS AS AMENDED.

Substitute Motion/Vote: **REP. WITT** made a substitute motion that HB 492 BE TABLED. Substitute motion failed 7-11 with **REPS.**

CALLAHAN, LINDEEN, MUSGROVE, PATTISON, RIPLEY, SINRUD and WITT voting yes on a roll call vote.

Motion: REP. HEDGES moved that the vote be reversed considering the Do Pass on HB 492. REP. HEDGES withdrew his motion.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 28.5}

Vote: REP. HEDGES motion that HB 492 DO PASS AS AMENDED carried 12-6 with REPS. BRUEGGEMAN, MUSGROVE, PATTISON, RIPLEY, SINRUD and WITT voted no on a roll call vote.____

EXECUTIVE ACTION ON HB 176

Motion/Vote: REP. PATTISON moved that HB 176 BE RECONSIDERED for purposes of discussion on their previous actions. Motion carried 17-1 with REP. FISHER voting no on a voice vote.

Motion: REP. PATTISON moved that HB 176 DO PASS AS AMENDED.

Discussion:

CHAIRMAN LEWIS said the issue is whether or not they should move the responsibility from the Department of Commerce to the Department of Natural Resources for the regional water projects.

Mark Simonich, Director, Department of Commerce, said, in his opinion, it is not a very good idea. It is not that it shouldn't be in the Department of Commerce but he thinks there are bigger issues, that ought to be addressed:

1) The breadth and depth of the work the Department of Commerce does with local governments in relation to working with them on infrastructure projects;

2) To assist them on community planning efforts such as writing technical assistance as they are developing their infrastructure plans;

3) Providing them with financial assistance in doing preliminary engineering reports and certainly the financial assistance with their projects themselves.

The Commerce Department works with local governments on financing construction. Their goal is to make those projects as affordable as can be. Director Clinch will say his Department funds infrastructure projects as well. This is a policy call from this

legislative body. It doesn't make any difference to the Department of Commerce in terms of his budget or his staff. It is a larger issue of how they want to provide services to the people of Montana.

Bud Clinch, Director, Montana Department of Natural Resources and Conservation (DNRC), said this was not an empire building move on the Department of Natural Resources and Conservation's part. Rather, it is a reflection of the actions they did in the past and the relationship that was established. They are actually the entity that drafted this bill. There is quite a bit of history involved in the DNRC being involved with developing relationships with the entities for the regional water projects.

CHAIRMAN LEWIS commented on the difficult position they are putting the two Directors in.

REP. BUZZAS asked Dave Gibson from the Governor's Office to comment on this issue and what is his recommendation on how this should be handled. **Mr. Gibson** said, "Conceptually they have to do the things that Director Simonich is talking about and start moving all these multiple projects under one roof so that a mayor does not have to go to five different programs to try to coordinate one project that involves four or five different funding sources."

REPS. WITT and FISHER commented.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 28.6}

In response to **REP. FISHER's** comments concerning significant long-term impact, **CHAIRMAN LEWIS** said they dealt with that when they passed the bill out the first time. They did agree, on a split vote, to take that money out for administration.

Motion/Vote: **REP. PATTISON** moved HB 176 DO PASS AS AMENDED AS IT WAS PASSED OUT THE FIRST TIME AND SEND THE BILL BACK TO SECOND READING IN THE FORM IT IS NOW ON THE YELLOW SHEET. Motion carried unanimously 18-0 with a roll call vote.

REP. JAYNE requested a change of her vote from a "no" to a "yes" on HB 160. **CHAIRMAN LEWIS** said, and without objection, it does not change the outcome and he instructed the secretary to change the vote to a "yes."

EXECUTIVE ACTION ON HB 74

Motion: REP. MUSGROVE moved HB 74 DO NOT PASS.

Substitute Motion/Vote: REP. BRUEGGEMAN moved a substitute motion that HB 74 BE TABLED. Motion carried 9-8 with REPS. BUZZAS, CALLAHAN, FRANKLIN, JAYNE, JUNEAU, KAUFMANN, LINDEEN and MUSGROVE voting no on a roll call vote.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 8.5}

ADJOURNMENT

Adjournment: 5:25 P.M.

REP. DAVE LEWIS, Chairman

MARY LOU SCHMITZ, Secretary

DL/MS

EXHIBIT (aph31aad)